

Remarks

Claims 1, 3, 5-14, 16, 18-27, 29, 31-39, 42-45, 47, 48, 51-54, 56-59 are pending in this application. New dependent Claim 59 has been added to alternatively define the invention.

In response to the Restriction Requirement mailed Nov. 9, 2009, Applicant disagrees with the Examiner's comparative analysis of the pending claims for the reasons given hereinafter. Applicant respectfully requests the Examiner to reconsider the restriction requirement in view of the following arguments.

It is argued that (1) determining undesirable network traffic, (2) based on characteristics of the network, (3) to lower a threshold or priority to determine undesirable network traffic are all inventive features that are overlapping in scope as worded throughout the pending claims.

All of the pending claims are directed towards a traffic regulation method and network.

All of the claims include a *monitor/regulator that determines undesirable network traffic* (e.g., see claim 1, lines 11-12 in restriction Group I and claim 48, line 11 in restriction Group II).

The monitor/regulator in both restriction Groups makes determinations about undesirable network traffic based on *characteristics of the network*. For example in claim 1 the determination is based in part on "differential characteristics" of the network domain, whereas in claim 48 the determination is based on "network traffic characteristics". In both cases, differences in characteristics that effect network traffic are examined.

In response to the Examiner's contentions (a) – (e) in the Office Action that a serious search and examination burden would apply if the restriction was removed, please consider the following:

- (a) The Examiner has indicated the same classification (class 709, subclass 204) for both Groups as indicated on page 2 of the Office Action.
- (b) The subject matter of all the claims as argued above is overlapping and non-divergent.
- (c) Since all the claims are directed to overlapping subject matter of network traffic regulation as argued above, the same field of search would apply (again as indicated on page 2 of the Office Action as class 709, subclass 204 for both Groups).
- (d) Due to the overlapping claim scope and subject matter, all of the pending claims would look to the same prior art.
- (e) For all the reasons previously stated above, no additional non-prior art issues under 35 USC 101 and/or 35 USC 112, first paragraph are evident.

In view of all the above arguments, Applicant respectfully traverses the restriction requirement and requests the Examiner for reconsideration.

In the event that the restriction requirement is upheld, Applicant elects, with traverse the invention of Group I, claims 1, 3, 5-14, 16, 18-27, 29, 31-39, 42-45, 47, 51-54, 56 and 58, drawn to systems and methods for regulating traffic by lowering the priority of undesirable traffic is elected for examination. New claim 59 is readable on Group I since claim 1 is dependent upon claim 1 residing in Group I.

Should any questions arise, the Examiner is encouraged to contact the undersigned.

Respectfully submitted,

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Date: December 9, 2009